

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FREDERICK RANDOLPH,

Plaintiff,

vs.

NEW TOP, INC., LUCASINI CLASSICS,
INC. and DON JONATHAN CRAVATS,
INC.

Defendants.

Civil Action No.: 08 CV 4598 (RJS)

**ANSWER TO COUNTERCLAIMS
OF COUNTERCLAIM PLAINTIFF
LUCASINI CLASSICS, INC.**

For his answer to the counterclaims of defendant and counterclaim plaintiff Lucasini Classics, Inc. (“Lucasini”), plaintiff and counterclaim defendant Frederick Randolph, responds as follows:

1. Admits, upon information and belief, the allegations in paragraph 1.
2. Admits the allegations in paragraph 2.
3. Neither admits nor denies the allegations in paragraph 3, which state legal conclusions to which no response is required.
4. Admits the allegations in paragraph 4, except to the extent they state legal conclusions to which no response is required.
5. Admits the allegations in paragraph 5, except to the extent they state legal conclusions to which no response is required.
6. Repeats his responses to paragraphs 1 through 5 as if fully set forth herein.
7. Admits the allegations in paragraph 7.
8. Admits that Lucasini purports to state the claims cited in paragraph 8.

9. Neither admits nor denies the allegations in paragraph 9, which state legal conclusions to which no response is required.
10. Repeats his responses to paragraphs 1 through 9 as if fully set forth herein.
11. Admits the allegations in paragraph 11.
12. Admits that Lucasini purports to state the claims cited in paragraph 12.
13. Neither admits nor denies the allegations in paragraph 13, which state legal conclusions to which no response is required.
14. Repeats his responses to paragraphs 1 through 13 as if fully set forth herein.
15. Admits the allegations in paragraph 15.
16. Admits that Lucasini purports to state the claims cited in paragraph 16.
17. Neither admits nor denies the allegations in paragraph 17, which state legal conclusions to which no response is required.
18. Repeats his responses to paragraphs 1 through 17 as if fully set forth herein.
19. Admits the allegations in paragraph 19.
20. Admits that Lucasini purports to state the claims cited in paragraph 20.
21. Neither admits nor denies the allegations in paragraph 21, which state legal conclusions to which no response is required.
22. Repeats his responses to paragraphs 1 through 21 as if fully set forth herein.
23. Admits the allegations in paragraph 23.
24. Denies the allegations in paragraph 24.
25. Denies the allegations in paragraph 25.
26. Denies the allegations in paragraph 26.
27. Denies the allegations in paragraph 27.

28. Denies the allegations in paragraph 28.
29. Repeats his responses to paragraphs 1 through 28 as if fully set forth herein.
30. Admits the allegations in paragraph 30.
31. Denies the allegations in paragraph 31.
32. Denies the allegations in paragraph 32.
33. Denies the allegations in paragraph 33.
34. Denies the allegations in paragraph 34.
35. Denies the allegations in paragraph 35.

FIRST AFFIRMATIVE DEFENSE

Lucasini has infringed the '289 and '429 Patents by making, using, offering to sell or selling the accused products.

SECOND AFFIRMATIVE DEFENSE

Lucasini's counterclaims fail to state a claim on which relief can be granted.

WHEREFORE Plaintiff and Counterclaim Defendant Frederick Randolph seeks an order of this Court dismissing Lucasini's counterclaims in their entirety, awarding Mr. Randolph his attorneys' fees and costs incurred in this action and awarding him such other relief as the Court deems just and proper.

Dated: New York, New York
August 12, 2008

Charles von Simson / s

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